

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL MEMORANDUM**

**HB 3433 – SB 3498**

April 13, 2010

**SUMMARY OF AMENDMENTS (014071, 015973):** Deletes all language after the enacting clause. Declares it the public policy of the state that every person has the right to decline or choose any mode of securing health care services without penalty or threat of penalty by the federal government and prohibits any public official, employee, or agent of the state or any of its political subdivisions from imposing, collecting, or effectuating any penalty for an individual practicing this right. Requires the Attorney General to seek an injunction and defend this policy in the event that any law or regulation violating this right is enacted by any government, subdivision, or agency.

**CORRECTED FISCAL IMPACT OF ORIGINAL BILL:**

MINIMAL

Other Fiscal Impact – If the Attorney General were to file suit, costs would be incurred for filing fees, depositions, travel and court appearances, and other out-of-pocket expenses. These costs cannot reasonably be quantified due to the uncertainty of litigation, but are estimated to range from \$5,000 to \$50,000.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

On April 13, 2010, a fiscal memorandum was issued estimating a fiscal impact as follows: *Unchanged from the original fiscal note.* Based upon further analysis following the passage of the federal *Patient Protection and Affordable Care Act*, and review of Attorney General Opinion No. 10-43 dated April 6, 2010, the fiscal impact of the bill is as follows:

**Unchanged from the original corrected fiscal note.**

Assumptions applied to amendments:

- In Attorney General Opinion No. 10-43, the Attorney General stated that he could not act as counsel for the State in this litigation. Since the bill directs only the Attorney General to file suit, there will be no cost of litigation because suit will not be filed and there would be no cost to the State.
- If the Attorney General were to file suit, this litigation can be handled with existing staff of the Attorney General as part of the Attorney General's responsibility to protect the

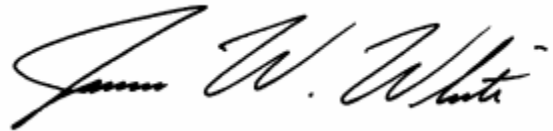
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state's legal interests. Out-of-pocket costs would be incurred for expenses related to the litigation, including filing fees, depositions, travel and court appearances.

- The impact on state expenditures of not litigating the constitutionality of such law cannot reasonably be determined due to a number of unknown factors.

### **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly legible, and "W." in the middle.

James W. White, Executive Director

/kml